

FCAAP Grant Agreement No. G0400000

between the

State of Washington Department of Ecology and

CURLEW COUNTY

Project: Acquisition of Repetitive Loss Properties

THIS is a binding agreement entered into by and between the State of Washington, Department of Ecology, (PO Box 47600, Olympia, Washington, 98504-7600) hereinafter referred to as the "DEPARTMENT" or as "ECOLOGY" and Curlew County, hereinafter referred to as the "RECIPIENT" to carry out the activities described herein as authorized by Chapters 86.26 RCW, 86.12 RCW, and further described in Chapter 173-145 WAC.

Recipient Name: **Curlew County**
Public Works and Utilities–Environmental Services
Water Programs Division
910 Foggy Bottom Drive SW, Suite 306
Windy River, Washington 98244

Recipient Project Coordinator: **Tom Fitzpatrick**
Telephone Number: (360) 569-8595 /Fax: (360) 569-8900
e-mail address: tfitzpatrick@co.curlew.wa.us

Fiscal Contact for Recipient: **Chuck Lyden**; phone: **(360) 569-8443**

Payee on Warrant: **Curlew County Treasurer**
(address as above)

Project Officer for the Department: **Dan Sokol**, SW Regional Office
PO BOX 47775, Olympia, WA 98504-7775
Telephone Number: (360) 407-7253/ FAX: (360) 407-6305
e-mail address: dsokol461@ecy.wa.gov

The Source of Funds provided by the DEPARTMENT are the Flood Control Assistance Account Program funds.

| | |
|--------------------------------|-----------|
| Maximum Eligible Project Cost: | \$460,000 |
| Maximum State Grant Share: | \$230,000 |
| Estimated Local Share: | \$230,000 |

State Maximum Cost Share Rate: 50% UP TO a maximum State Share of **\$230,000**.

The effective date of this agreement is September 1, 2003.

The Project described herein expires on and must be completed by June 30, 2005.

Scope of Work

Project Title: Acquisition of Repetitive Loss Properties

Description: The RECIPIENT shall acquire Repetitive Loss Properties. Property acquired shall remain in perpetuity for open space (parks, nature preserves, cultivation, grazing, and unimproved pervious parking areas), recreational use, or wetlands management purposes only.

Location: Section 11 and 13, Township 20N, Range 03E, WM, parcel number: See Attachment 1 or GPS location:

Work Program: The RECIPIENT shall comply with the local Comprehensive Flood Hazard Management Plan if applicable, Shoreline Master Program, local comprehensive plan, State Environmental Policy Act, and zoning ordinance and shall have acquired all necessary federal, state and local permits. Copies of all permits, plans, specifications, and documentation for compliance with the Endangered Species Act shall be sent to Ecology prior to the commencement of work. If GIS work or environmental measurement data is to be collected under this agreement, refer to paragraphs 6 and 7 of Special Terms and Conditions of this agreement for compliance with Ecology standards. Work tasks include:

Task 1: Performance Coordination:

1.1: Coordination with the Department

To assist the County and ensure project results are consistent with the state laws and regulations for flood hazard management, the Recipient, as part of this agreement, shall coordinate with Ecology staff, **Dan Sokol** phone: **(360) 407-7253**. This coordination will provide specific technical assistance on acquisition of flood plain properties. In order for the Department to provide this support, the Recipient shall coordinate with the Ecology's Project Officer by means of telephone conversations and/or meetings at the beginning of each quarter at a minimum. Recipients are encouraged to coordinate more often whenever the Department can provide technical assistance or respond to questions regarding the project or grant.

1.2: Coordination with the Washington State Department of Fish and Wildlife

The Recipient shall make all efforts to involve the Washington State Department of Fish and Wildlife local Fisheries biologist in the implementation of Flood Damage Reduction projects.

1.3: Coordination with the Washington State Department of Natural Resources

If the project site involves state-owned aquatic lands, prior to construction, the recipient shall contact the Washington State Department of Natural Resources (DNR) to obtain authorization to use such lands and to ensure consistent aquatic lands management goals. Coordination with DNR in the planning stages of the

project may significantly help avoid delays and land-use conflicts later in the project. The Aquatic Resources Division in Olympia may be contacted at (360) 902-1100. Ask to be referred to the appropriate region office for the county in which your project is located.

Task 2: Project Management

The Recipient shall perform the following:

- 2.1:** Prepare and submit quarterly progress reports commensurate with payment requests.
- 2.2:** Prepare and submit quarterly payment requests in conjunction with progress reports.

Deliverables: Quarterly progress reports and payment requests as stipulated in the Special Terms and Conditions of this agreement.

Date Due: Quarterly

Task 3: Acquisition of Repetitive Flood Loss Properties

The Recipient shall take all reasonable steps to acquire up to four of the subject properties (see Attachment 1). Property acquired shall remain in perpetuity for open space (parks, nature preserves, cultivation, grazing, and unimproved pervious parking areas), recreational use, or wetlands management purposes only and shall be stated on the deed. The Recipient shall:

- 3.1:** Obtain appraisal and review appraisal of property.
- 3.2:** Negotiate with subject property owner, informing them of the appraisal results and make fair market value offer to purchase property.
- 3.3:** Conduct hazardous waste audit.
- 3.4:** Purchase the subject properties.
- 3.5:** Demolish, remove or relocate structures on purchase property.

Deliverables: Two (2) copies each:

- ❶ Map indicating location of the properties purchased;
- ❷ Acquisition documents:
 - a. Appraisal
 - b. Legal description
 - d. Title insurance policy
 - d. Title certification (deed)
 - e. Hazards Waste Audit
- ❸ Two sets of photographic documentation (35mm color prints) of project property before and after project implementation in sufficient quantity to effectively illustrate project progress.

④ Project summary report

Date Due: June 30, 2003

DELIVERABLES

The Recipient shall send deliverables to the Department as follows:

One copy of each progress report; and one copy of each deliverable as stipulated in the Scope of Work to:

Bev Huether
WA State Department of Ecology
Shorelands and Environmental
Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600

One copy of each progress report; and one copy of each deliverable as stipulated in the Scope of Work to:

Dan Sokol
WA State Department of Ecology
SW Regional Office
Shorelands and Environmental
Assistant Program
PO BOX 47775
Olympia, WA 98504-7775

Budget Terms and Conditions

1. Expenditures will be monitored by the Ecology Fiscal Office for compliance with the EXPENDITURE BUDGET (listed below) at the PROJECT LEVEL.
2. The indirect rate shall not exceed 25% of direct (staff) labor and benefit costs. This rate covers space utilities, miscellaneous copying, telephone, motor pool, janitorial services, records storage, rental, county fiscal and legal services, etc. Items not included in this list shall be reported with the first payment request and shall remain consistent for the life of the grant.
3. In-kind (voluntary services) are valued at \$15.00/hour per individual.
4. For the administration of this agreement the Recipient shall follow the "Administrative Requirements for Ecology Grants and Loans", current edition.
5. Requests for reimbursement shall be submitted at least quarterly but not more than once per month by the RECIPIENT on state invoice voucher forms. Payment requests are to include at a minimum Form A19-1A "Invoice Voucher", Form B, "Running Budget Summary", Form C: Voucher Support" and Form D "Contractor Participation Report" (if applicable). All requests for payment are to be consistent with the budget as below **and accompanied by a commensurate progress report.**

NOTE: Ecology forms are contained in the "Administrative Guidelines for Ecology Grants and Loans" and must be used for payment requests. Otherwise requests will be returned to the RECIPIENT for submittal on the correct forms. Electronic copies of these forms and the

“Administrative Requirements for Ecology Grants and Loans” (“Yellow Book”) are available at Ecology’s websites:

- Forms - <http://www.ecy.wa.gov/biblio/91018A.html>
- Yellow Book - <http://www.ecy.wa.gov/biblio/91018.html>

Complete backup documents (to include but not limited to all invoiced costs, time sheets [signed and dated by both employee and supervisor], etc.) MUST be maintained by the RECIPIENT. These expenses will be kept in grant files according to budget task for a period of three years after project completion and made available at any time for inspection by the DEPARTMENT.

Final payment of grant projects is contingent on receipt of viable work products as listed in the grant document.

6. **Expenditure Budget:** (for Recipient reporting and Ecology tracking purposes):

| | |
|--------------------------------|-----------|
| Maximum Eligible Project Cost: | \$460,000 |
| Maximum State Grant Share: | \$230,000 |
| Estimated Local Share: | \$230,000 |

State Maximum Cost Share Rate: 50% UP TO a maximum State Share of \$230,000.

7. **Match Requirements:** The RECIPIENT’s local match shall consist of cash.

8. **Estimated budget** (for information only):

| | Unit | Quantity | Unit Cost | TOTAL COST |
|--|------|----------|-----------|------------------|
| LABOR | | | | |
| Salaries/Benefit/ Construction Management | Each | Up to 4 | \$1,000 | \$4,000 |
| Demolition | Each | Up to 4 | \$10,000 | \$40,000 |
| MATERIALS | | | | |
| Title Reports | Each | Up to 4 | \$400 | \$1,600 |
| Appraisals | Each | Up to 4 | \$2,500 | \$10,000 |
| Purchase Offer /Acquisitions | LS | Up to 4 | \$514,400 | \$404,400 |
| TOTAL | | | | \$460,000 |

Proposed State Share @50% = \$230,000

Local Match @ 50% = \$230,000

*Maximum allowable indirect rate is 25% of salaries and benefits.

Special Terms and Conditions

AGREEMENT PROVISIONS

1. **Compliance with all Laws:** The Recipient shall comply fully with all applicable federal, state and local laws, orders, regulations and permits.
2. **Restrictions on Lobbying:** The Recipient of this agreement is prohibited from using funds provided by this agreement for lobbying purposes in accordance with the Administrative Requirements for Ecology Grants and Loans, Publication No. 91-18, current edition, Part III, Section G.
3. **Local Decision:** This grant is made in response to a request for financial assistance from the Recipient to undertake flood hazard reduction projects. The choice of floodplain management activities addressed by this grant is a local decision made solely by the Recipient. The Recipient is not acting as an agent of the State.
4. **Lawsuits:** The Recipient agrees to accept all responsibility for any non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained or improved pursuant to this grant. The filing of any legal action by the Recipient against Ecology, for non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained or improved pursuant to this grant, shall be grounds for immediate termination of all open FCAAP grants with the local jurisdiction, and may jeopardize the jurisdiction's opportunity to be awarded future FCAAP funds.
5. **Indemnification, Hold Harmless and Duty to Defend:**
 - a. The Department shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the scope of work.
 - b. This paragraph applies to negligence based claims only. All other claims are governed by paragraph 4 of this section. To the extent the constitution and laws of the State of Washington permit, Recipient shall indemnify, defend and hold harmless the State, its agencies, officers and employees, from all claims, suits or actions brought for any or all injuries to persons or property arising from, or as a consequence of, negligent acts or omissions related to the construction, restoration, repair, maintenance, improvement or operation of the structures or works for which this grant is provided. If the structure or works for which this grant is received are a portion of an integrated flood protection system, Recipient agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system.

The Recipient will not be required to indemnify, defend, or save harmless the State, its agencies, officers or employees as provided in the preceding paragraph of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the State. Where such claims, suits, or actions result from the concurrent negligence of (a) the State, or the State's agents or employees and (b) the Recipient or the Recipient's agent or employees, the indemnity provisions provided in

the preceding paragraphs of this section shall be valid and enforceable only to the extent of the Recipient's negligence or the negligence of its agents and employees.

- c. To the extent that the constitution and laws of the State of Washington permit, Recipient shall indemnify and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the continued operation, maintenance, or repair, of the structures or works constructed, restored, repaired, maintained or improved as a result of this grant. If the structure or works for which this grant is received are a portion of an integrated flood protection system, Recipient agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system. This agreement applies to all non-negligent, non-contractually based claims including, but not limited to, inverse condemnation, contribution, indemnification, trespass and/or nuisance.
- c. Recipient agrees that neither the existence nor amount of this agreement may be used as evidence in any civil proceedings in which the State of Washington, its agencies or officers are a party, except actions for breach of the grant agreement.

6. Coordination with Ecology's Geographical Information System (GIS)

IF this project involves developing GIS data, the Recipient shall coordinate with Ecology's GIS office in an effort to promote compatibility and to encourage sharing of geospatial data. To facilitate data sharing, the Department utilizes the following standards:

| Ecology's GIS Standards | |
|-------------------------|---|
| ESRI's ARC/INFO | Current version |
| ESRI's ArcView | Current Version |
| Horizontal Datum | NAD 27 or NAD 83 (Revised 1991) |
| Vertical Datum | NGVD 29 or NGVD 88 |
| Projection System | Lambert Conic Conformal |
| Coordinate System | WA State Plane Coordinates |
| Coordinate Zone | South |
| Coordinate Units | US Survey Foot |
| Accuracy Standard | +/-40 Feet (1:24,000) minimum accuracy to within a foot of the true North American datum system |
| Vector Import Format | ArcExport, DLG and/or DXF, shapefiles |
| Raster Import Format | TIFF, BIL/BIP, RLC, GRID, ERDAS |

Whenever possible, the Recipient is encouraged to utilize the standards listed above when compiling data. To discuss the usage of other standards, please contact Jerry Franklin at 360 407-7470; Fax: 360 407-6902; E-Mail:

jfra461@ecy.wa.gov or John Tooley at 360-407-6418; E-Mail: jtoo461@ecy.wa.gov
for further data sharing and compatibility information.

The Recipient shall submit copies to Ecology's Project Officer with complete documentation as it relates to all digital data, GIS coverages, shape files, related tables and map products.

7. **Quality Assurance / Quality Control (QA/QC)Plan**

IF this project involves the collection of environmental measurement data, the Recipient needs to prepare a QA/QC plan to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating this data. The plan shall be conducted in accordance with the DEPARTMENT's Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies, current edition, (Ecology Publication No. 91-16). The plan must describe the monitoring and data quality objectives, procedures, and methodologies which will be used to ensure that all environmental data generated will meet these requirements. The size and complexity of the plan should be cost effective and in proportion to the magnitude of the sampling effort. The RECIPIENT may also reference Technical Guidance for Assessing the Quality of Aquatic Environments, February 1994 (Ecology Publication No. 91-78), in developing the plan. The QA/QC report shall be limited to a concise description of the environmental measurement aspects of this project. Ecology's Project Officer shall review and approve this plan prior to initiation of work.

The QA/QC plan may describe the following elements:

- Assumptions that direct the collection and analysis;
- Resources used (such as flights for aerial photos);
- Resource documents that will be consulted;
- Field methods employed;
- Office methods employed;
- Training level of staff involved in data collection and analysis;
- Equipment/materials to be used and accurate calibration assurance.

8. **Identification of Project Materials:-**

| |
|--|
| County or City Name Grant No. G0400 _____ |
| Project Title Task Title Task Number Date |

All reports, maps, and other documents published as part of this grant agreement shall carry the name of the RECIPIENT, Ecology's grant number (in the upper right hand corner), title, the specific task number of the product and date centered on the front cover or title page (or in the case of maps, the block which contains the name of the Government unit or Department)

9. Project Completion Requirements: On completion of the project, the Recipient shall submit the following information and materials to the DEPARTMENT:

a. Project Completion Report: The purpose of this report is to document that the project and each of its elements has been completed. Two (2) copies of a "Project Completion Report" are required as follows:

- (1) Summary Account - The Completion Report must include a **brief summary** account (300 word maximum) of the work accomplished under the grant with respect to each of the surveys, studies, plans, and other planning activities listed in the grant or any amendments to that grant. It is also to include a notation of the exhibit or portion thereof containing the project of that work task.
- (2) Reports, Maps, Plans, Exhibits, Etc. - The Completion Report must include a complete set of all reports, maps, plans, and other documents prepared under this grant, indicating for each whether it is in published or unpublished form as defined in the grant.

10. **Annual Flood Budget:** The Recipient will provide a copy of the annual flood budget when returning signed grants to Ecology. Failure to provide this information required by WAC 173-145-030(5) will result in termination of this grant. If this information is not available, please provide a separate letter explaining why budget information is not available.

11. Right to Audit

The RECIPIENT agrees that payment(s) made under this grant shall be subject to reduction for amount charged thereto which are found after audit examination not to constitute allowable costs under this grant. The RECIPIENT shall refund by check payable to the DEPARTMENT the amount of such reduction of payments under completed or terminated grants.

12. Minority And Women's Business (MWBE) Participation

The RECIPIENT agrees to solicit and recruit, to the maximum extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize the DEPARTMENT'S goals for minority- and women-owned business participation in all bid packages, request for proposals, and purchase orders. These goals are expressed as a percentage of the total dollars available for the purchase or contract and are as follows:

| | | |
|---------------------------|---------|-------|
| Construction/Public Works | 10% MBE | 6%WBE |
| Architecture/Engineering | 10% MBE | 6%WBE |
| Purchased Goods | 8% MBE | 4%WBE |
| Purchased Services | 10% MBE | 4%WBE |
| Professional Services | 10% MBE | 4%WBE |

Meeting these goals is voluntary and no contract award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and the RECIPIENT and ALL prospective bidders or persons submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

- a. Include qualified minority and women's businesses on solicitation lists.
- b. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

By signing this Agreement, the RECIPIENT certifies that the above steps were, or will be followed. Any contractor engaged by the RECIPIENT under this agreement shall be required to follow the above five affirmative steps in the award of any subcontract(s).

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. The report will address:

- a. Name and state OMWBE certification number of any qualified firm receiving funds under the voucher, including any sub-and/or sub-subcontractors.
- b. The total dollar amount paid to qualified firms under this invoice.

13. **Quarterly Reports** are contingent on the effective date of the agreement. For timely preparation and review, quarterly reports shall convey essential information in a simple, concise manner through the use of bulleted summary statements, lists, and tables and include the following:

- a. A comparison of actual accomplishments to the objectives established for the reporting period including a description of issues on fisheries resources;
- b. For any work related to GIS, designate data standard utilized and associated data documentation.
- c. Status of project schedule
- d. Personnel changes
- e. Any difficulties encountered during the quarter.
- f. Environmental benefits being achieved by the project

Reporting Periods

| Progress Report | Reporting Period | Date Due |
|------------------|-------------------------|------------------|
| 2003-2004 | | |
| First Quarter | July 1 – September 30 | October 20, 2003 |
| Second Quarter | October 1 – December 31 | January 20, 2004 |
| Third Quarter | January 1 – March 31 | April 20, 2004 |
| Fourth Quarter | April 1 – June 30 | July 20, 2004 |
| 2004-2005 | | |
| First Quarter | July 1 – September 30 | October 20, 2004 |
| Second Quarter | October 1 – December 31 | January 20, 2005 |
| Third Quarter | January 1 – March 31 | April 20, 2005 |
| Fourth Quarter | April 1 – June 30 | July 20, 2005 |

14. **Failure To Commence Work:** This grant awarded under the Flood Control Assistance Account Program is viable up to March 31, 2004. A viable award is one in which a grant agreement has been duly executed (signed by both parties) and there has been a good faith effort demonstrated toward meeting project goals documented through quarterly progress reports. During October 2003 Ecology will be contacting successful applicants regarding project progress. **Adequate written justification for requesting an extension to March 31, 2004 must be received by October 31, 2003 or the grant award will be automatically rescinded and funds reprogrammed to other local jurisdictions.**
15. **Grant Closeout:** All products for this project shall be submitted to the DEPARTMENT on or before **July 20, 2005** or otherwise specified in the Scope of Work. Final payment requests must be submitted no later than **July 20, 2005**, or the date established by OFM.
16. **All Writings Contained Herein:** This agreement, the appended "General Terms and Conditions", the DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", and the "Guidelines for FCAAP Grants" contain the entire understanding between the parties, and there are no other understandings or representations except those set forth or incorporated by reference herein. No subsequent modification(s) or amendments to this agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and DEPARTMENT and made a part of this agreement; EXCEPT a letter amendment will suffice to extend the period of performance as set forth on the page 1 of this grant agreement.

IN WITNESS WHEREOF, the parties hereby execute this Grant Agreement:

State of Washington
Department of Ecology

Curlew County

Gordon White Date
Program Manager
Shorelands and Environmental
Assistance Program

Signature, Authorized Official Date

Print Name of Authorized Official

Approved as to form only by
The Assistant Attorney General

Title of Authorized Official

Federal Identification Number: 91-6000000

Attachment 1: Property Summary List